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Application Number

10/645,205

Filing Date

August 21, 2003

First Named Inventor

Wendy Nan Rees

Art Unit

1744

Examiner Name

Krisanne Marie Jastrzab

Attorney Docket Number

REES#1

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
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Drawing(s)



Licensing-related Papers



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Petition to Convert to a
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Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

W. Edward Johansen

Signature

Printed name

W. Edward Johansen

Date

June 3, 2008

Reg. No.

26,744

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re the application of:

Wendy Nan Rees and Thomas D. Rees

For: Package Containing Scented and

Custom Treated Card

Serial No. 10/645,205

Filed August 21, 2003

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Krisanne Marie Jastrzab

Examiner

Art Unit No. 1744

CORRECTED APPEAL BRIEF

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Real Party in Interest

Wendy Nan Rees and Thomas D. Rees are the real parties in interest.

Related Appeals and Interferences

There are no other related appeals and no related interferences.

Status of Claims

There are two claims, Claims 1 and 2. Claim 1 has been cancelled.

Claim 2 has been rejected. Claim 2 is being appealed.

Status of Amendments

The amendment that the applicants filed subsequent to final rejection has not been entered by the Examiner.

Summary of Claimed Subject Matter

The invention is a scented and custom treated card and is used with prior art vacuum cleaners as shown in Fig. 1 and Fig. 3. In the prior art "...cedar chips 30 as shown in Fig. 2 are made of aromatic red cedar ... (Page 12, lines 7 and 8). The prior art vacuum cleaners have an intake nozzle, a receptacle and a blower that creates a flow from the nozzle to the receptacle having an opening so as to carry dirt from the nozzle into the receptacle.

The scented and custom treated card is shown in Fig. 4 as being in a package and in Fig. 5 with the "package 150" being "opened at its bottom edge (Page 19, lines 7 through 10) so that the pre-scented and custom scented card 140 can be cut into a plurality of strips 160.

The "strips 160 of the pre-scented and custom scented card 140 are disposed in the bag 112" of the vacuum cleaner 110 (Page 19, lines 12 and 13).

The scented and custom treated card includes a "card 140" that "is capable of absorbing a fragrance" (See Page 16, lines 2 and 3). "The fragrance applied can consist of micro-encapsulated-fragrance oil (See Page 18, lines 3 and 4). The micro-encapsulated oil contains at least one of a fragrance, an anti-bacterial agent and an odor eliminator disposed on said card.

The card 140 cut into a plurality of strips 160 as shown in Fig. 6. Each strip 160 is bent at its center so that the strip 160 does not stick to the side of the receptacle in order to increase airflow across the surface area of the strip 160 when the strip 160 is inserted into the receptacle through the opening of the receptacle 114.

The claimed subject matter is a card 140 that is formed from a material capable of absorbing oil and an oil. The oil contains at least one of a fragrance, an anti-bacterial agent and an odor eliminator which are disposed on the card. The card is cut into a plurality of strips each of which is bent at its center so that the strip does not stick to the side of the receptacle in order to increase airflow across the surface area of the strip when the strip is inserted into a receptacle through an opening thereof.

Grounds of Rejection to be Reviewed on Appeal

Claim 2 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bryant (U.S. Patent No. 5,040,264).

Claim 2 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bosses (U.S. Patent No. 5,342,420).

Claim 2 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by Colon (U.S. Patent No. 5,460,787).

Claim 2 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by Benko (U.S. Patent Application No. 2003/0091466).

Argument

Bryant teaches a vacuum cleaner bag of porous material that includes a substrate impregnated with anti-static and deodorizing agents. The substrate may also be impregnated with disinfecting agents. The substrate is attached to the bag. Bryant teaches a porous substrate in the form of a card impregnated with an agent such as an essential oil. The card is used with a vacuum cleaner and is capable of being cut into strips, but it is not cut because there is no reason to do so. While Bryant teaches a vacuum cleaner bag of porous material that includes a substrate impregnated with anti-static and deodorizing agents and that the substrate may also be impregnated with disinfecting agents. The substrate is attached to the bag. The substrate of Bryant is not to be cut into a plurality of strips. The card of claim 2 is cut into a plurality of strips. Each strip can then be bent at its center so that each strip does not stick to the side of the receptacle thereby increasing airflow across the surface area of the strips when the strips are inserted into a receptacle through an opening thereof.

Bosses teaches a dust and dirt collecting apparatus for a vacuum cleaner which includes a porous bag defining a dust and dirt collecting enclosure. A releasing strip is disposed on an outer surface of the bag for releasing an active agent (such as a deodorant) into air passing through the vacuum

cleaner. A covering associated with the releasing strip is switchable from a first condition blocking release of the active agent by the releasing strip to a second condition enabling release of the active agent by the releasing strip.

Bosses teaches a porous bag of a vacuum cleaner and a releasing strip that is disposed on the outer surface of the porous bag for releasing an active agent (such as a deodorant) into air passing through the vacuum in order to deodorize the vacuum cleaner. The releasing strip includes a porous substrate in the form of a card or strip impregnated with an active agent including essential oils. Although the substrate is capable of being cut into strips the releasing strip of Bosses is attached externally to the bag. Bosses teaches a dust and dirt collecting apparatus for a vacuum cleaner that includes a porous bag defining a dust and dirt collecting enclosure. A releasing strip is disposed on an outer surface of the bag for releasing an active agent, such as a deodorant, into air passing through the vacuum cleaner, it not cut into strip. Each strip of claim 2 is cut from a substrate and then bent at its center so that when each strip is inserted into a receptacle it does not stick to the side of the receptacle thereby increasing airflow across the surface area of the strips when the strips are inserted into an receptacle through an opening thereof.

Colon teaches an apparatus that provides a scent to a compartment and includes a reusable holder having a connecting mechanism and a scented card that may be inserted into the holder. Colon teaches a card impregnated with an active agent such as a fragrance for use in deodorizing areas by attachment to air moving means. While the card is capable of being cut into strips and capable of being used with a vacuum cleaner it is not cut. While Colon teaches an apparatus for providing a scent to a compartment that includes a reusable holder having a connecting mechanism and a scented card that may be inserted into the holder. The card of Colon is not for use with a vacuum cleaner. Each strip of claim 2 is cut from a substrate (or card) and is then bent at its center so that each strip does not stick to the side of the receptacle thereby increasing airflow across the surface area of each of the strips when the strips are inserted into the receptacle through an opening in the receptacle.

Benko teaches an apparatus for releasing fragrance which includes a first scented layer that releases a first portion of fragrance and a second scented layer adjacent to the first layer that releases a second portion of fragrance. The second portion of fragrance is released after the first portion of fragrance is released. Benko teaches a means of releasing a fragrance including a card impregnated with a fragrance agent. The card is capable of

being cut into strips and of being used with a vacuum cleaner, but is not cut.

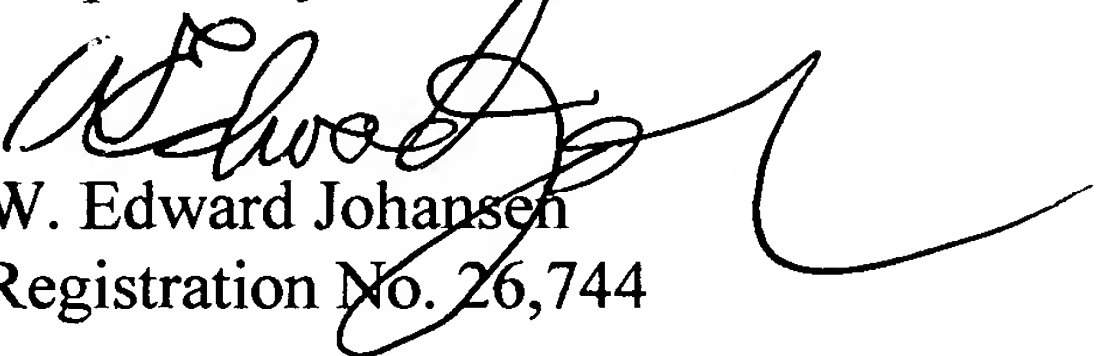
While Benko teaches an apparatus for releasing a fragrance that includes a first scented layer that releases a first portion of fragrance and a second scented layer adjacent to the first layer that releases a second portion of fragrance. The card of claim 2 is cut into a plurality of strips. Each strip can then be bent at its center so that each strip does not stick to the side of the receptacle thereby increasing airflow across the surface area of the strips when the strips are inserted into the receptacle through the opening of the receptacle. The strips of Benko are not for use in a vacuum cleaner.

A package of strips according to claim 2 contains a scented and custom treated card and is for use with a vacuum cleaner having an intake nozzle, a receptacle and a blower that creates a flow from the nozzle to the receptacle so as to carry dirt from the nozzle into the receptacle. The pre-scented and custom scented card includes a card and oil containing a fragrance, an anti-bacterial agent and/or an odor eliminator. The card is formed from a material that is capable of absorbing a fragrance. The oil containing the fragrance, the anti-bacterial eliminator and/or the odor eliminator are disposed on the card. The card is adapted to be cut into a plurality of strips that are then inserted into the receptacle through the opening of the bag or receptacle.

The instant claim limitations are not met by the prior art of record because the card of claim 2 is cut into strips and bent at its center prior to insertion into the vacuum, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use then it meets the claim. While the scented cards of each of the prior art references applied are fully capable of being cut into strips and bent at the center the scented card are not so cut so that the applicants' argued language does present a structural difference.

Dated: June 13, 2008

Respectfully submitted,


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Claims Appendix

Claim 1 is cancelled.

2. (Currently amended) For use with a vacuum cleaner having an intake nozzle, a receptacle and a blower that creates a flow from the nozzle to the receptacle having an opening so as to carry dirt from the nozzle into the receptacle, a scented and custom treated card comprising:
- a. a card formed from a material capable of absorbing an oil; and
 - b. an oil containing at least one of a fragrance, an anti-bacterial agent and an odor eliminator disposed on said card whereby said card cut into a plurality of strips each of which is bent at its center so that said strip does not to stick to the side of the receptacle in order increase airflow across the surface area of said strip when said strip is inserted into the receptacle through the opening of the receptacle.

Evidence Appendix

None. There is no evidence being submitted.

Related Proceedings Appendix

None. There are no related proceedings for this application.